

REMARKS

Entry of the foregoing amendments to the application is requested on the grounds that the claims, as amended, patentably distinguish over the cited art of record or, alternatively, place the application in better condition for appeal. The claims more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. No new issues have been added which would require further consideration and/or search, nor has any new matter been added. The claims as amended are believed to avoid the rejections applied in the Final Office Action for reasons set forth more fully below.

The Final Office Action of November 24, 2009 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 10-12 and 14 remain in the application. New claims 17-19 have been added herein. It is submitted that these claims are fully supported by the application as filed. Reconsideration of the claims is respectfully requested.

Claims 10-12 and 14 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states that it is unclear how in claim 10, lines 20-21 "the plurality of tubes pass through the plurality of slots and maintain the tank foot in place." To the Examiner, it seems that the combination of the slots with the collars are what maintain the tank foot in place. Claims 11, 12, and 14 stand rejected as being dependent from rejected independent claim 10.

Applicants assume that the Examiner's comments above are based at least in part on Applicants' inadvertent error in citing Figs. 7 and 8 as support for Applicants' previous amendment to claim 10. It is respectfully submitted, however, that in the same sentence, Applicants referred to page 10, lines 15-21 from the application as filed. Lines 15-21 refer to Figs. 3a, 3b, 3c and 10 which show inverted collars when compared to the collars in Figs. 7 and 8. It is submitted that at least Figs. 3c and Fig.

Claim 14 stands objected to because of the following informalities: Claim 14 depends from canceled claim 13. Applicants have revised claim 14 to recite dependence on claim 12. As such, it is submitted that the objection has been obviated, and withdrawal of the same is respectfully requested.

Claims 10 and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by Dey et al. (U.S. Publication No. 2003/0217838). The Examiner states that Dey discloses in Figures 4, 6b and 6c, all of the elements recited in Applicants' independent claim 10. The Examiner also states that for the purposes of examination, he is interpreting claim 10 to mean in relevant part that "the combination of the slots with the collars [is] what maintain[s] the tank foot in place."

Applicants respectfully submit that Dey discloses a heat exchanger wherein the collar is oriented classically (i.e. toward the header tank). In this case, Dey's collar may help to retain the tank foot as stated by the Examiner. However, in the Applicants' independent claim 10, the collar is inverted (oriented opposite to Dey's collar). Therefore, as presented above and recited in claim 10, Applicants' tubes maintain the tank foot in place. In sharp contrast, Dey's collar abuts the tank foot – not the tubes.

For all the reasons stated above, Applicants submit that Dey *fails* to disclose all of the elements of Applicants' claim 10, from which claim 14 ultimately depends. Applicants submit that claim 14 is patentable at least because of its dependency from claim 10. As such, it is submitted that Applicants' invention as defined in independent claim 10, and in those claims depending ultimately therefrom, is not anticipated, taught or rendered obvious by Dey, and patentably defines over the art of record.

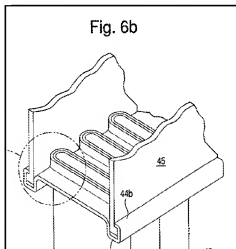
Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dey. The Examiner states that Dey discloses a tube having a length that appears to be of less than or about twice the thickness of the header plus tank foot width of the header, and that Dey's Figure 2 shows that the tube has a

length of less than or about twice the thickness of the header plus tank foot width of the header. Furthermore, the Examiner asserts that it is an obvious mechanical expedient to one of ordinary skill in the art to utilize a tube having a length of less than or about twice the thickness of the header plus tank foot width of the header because doing so will ensure properly functioning tube as well as minimizing the amount of material needed to be used to minimize cost.

Regarding claim 12, the Examiner states that Dey discloses a header pan comprising at least one flat medallion. The Examiner notes that the header pan of Dey is relatively flat, and concludes that Dey has a flat medallion.

For the reasons stated above, it is submitted that Dey *fails* to disclose all of the elements of independent claim 10, from which claims 11-12 ultimately depend. Since Dey does not render Applicants' invention as defined in independent claim 10, Applicants submit that claims 11 and 12 are patentable at least because of their dependency from claim 10. As such, it is submitted that Applicants' invention as defined in claims 11 and 12 is not anticipated, taught, or rendered obvious by Dey, and patentably defines over the art of record.

Furthermore, Applicants respectfully point out that in Dey, the plane of the gasket is well below the level of the tube slots. For this reason, it is apparent that Dey does not disclose a flat medallion. (See Dey, Fig. 6b reproduced in relevant part below for convenience.)



For all the reasons stated above, it is submitted that Applicants' invention as defined in independent claim 10, as well as in those claims depending therefrom, is not anticipated, taught or rendered obvious by Dey, either alone or in combination, and patentably defines over the art of record.

It is submitted that the absence of a reply to a specific rejection, issue or comment in the instant Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this amendment should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this amendment, and the amendment of any claim does not signify concession of unpatentability of the claim prior to its amendment.

In summary, claims 10-12 and 14 remain in the application, and new claims 17-19 have been added herein. It is submitted that, through this amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance. Should the Examiner believe otherwise, it is submitted that the claims as amended qualify for entry as placing the application in better form for appeal.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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